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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,171	06/18/2002	James W. Adkisson	BUR919990299	8362

30743 7590 02/13/2004

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EXAMINER

MAGEE, THOMAS J

ART UNIT PAPER NUMBER

2811

DATE MAILED: 02/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/064,171

Applicant(s)

ADKISSON ET AL.

Examiner

Thomas J. Magee

Art Unit

2811

AW

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED 30 December 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: (See attached sheet).
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

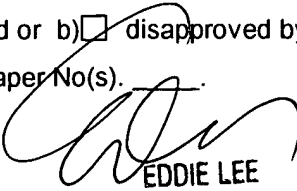
The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-8.Claim(s) withdrawn from consideration: 9-17.

8. ☒ The drawing correction filed on December 30, 21003 is a) ☒ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s).
10. ☐ Other: _____


EDDIE LEE
SUPERVISORY PATENT EXAMINER
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Item 2c):

The proposed amendment raises new issues that would require further consideration and/or search.

Thomas Magee

February 6, 2004

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Item 5c) :

1) Examiner notes that Applicant's comments (p. 13, Response) are based on proposed amendment to change Claim 1, and as such will not be addressed here.

2) Applicant alleges (p. 14, Response) that Sung teaches a tungsten "spacer" but does not suggest silicidation. Examiner does not concur. Applicant has quoted another embodiment which was not addressed in the Office Action. Sung clearly teaches the formation of silicide spacers throughout the reference (Figure 3b) (Col. 6, lines 4 – 5) (Col. 1, lines 61 – 63) (Col. 2, lines 7 – 10) (Col. 7, lines 60 – 61).

3) Applicant alleges (p. 14, Response) that Liu et al. do not teach any of the elements not taught by Mizuno et al. Examiner disagrees. Liu et al. disclose a method for forming damascene interconnects (Figure 2F) which is not disclosed by Mizuno et al. Applicant is reminded that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

4) Applicant has continued arguments that the process limitation, "sub-lithographic," constitutes a viable device or structural limitation in terms of dimension. The term, sub-lithographic, is a changing parameter, and is different today from what was defined ten years ago, and even since the instant application was filed in 2002. Further, this is tool dependent, organization dependent, and location dependent. The term is therefore, indefinite with regard to a dimensional description of a structural element in a device application.